

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOSEPH D. BURGDORF,

Plaintiff,

-v-

6:22-CV-987

BETSY ROSS NURSING AND
REHABILITATION CENTER, INC.,
TRACY LYNN JANE, AMIDON
MEDICAL GROUP, AND MOHAWK
VALLEY HEALTH SERVICES,

Defendants.

APPEARANCES:

OF COUNSEL:

JOSEPH D. BURGDORF

Plaintiff, Pro Se

514 Floyd Avenue

Rome, NY 13440

DAVID N. HURD

United States District Judge

ORDER ON REPORT & RECOMMENDATION

On September 20, 2022, *pro se* plaintiff Joseph Burgdorf (“plaintiff”) filed this action alleging that defendants are involved in a RICO conspiracy to, *inter alia*, unlawfully detain him at a medical center and rehabilitation facility. Dkt. No. 1. Along with his complaint, plaintiff also sought leave to proceed *in forma pauperis* (“IFP Application”). Dkt. No 2.

On January 5, 2023, U.S. Magistrate Judge Andrew T. Baxter granted plaintiff's IFP Application and advised by Report & Recommendation ("R&R") that plaintiff's complaint be dismissed. Dkt. No. 4. Judge Baxter noted that plaintiff's RICO claims and claims under several New York criminal statutes were plainly meritless and subject to dismissal with prejudice. *Id.* Judge Baxter further noted that the rest of plaintiff's claims were also deficiently pleaded, but that those remaining claims needed to be dismissed without prejudice as a technical jurisdictional matter. *Id.* Even so, Judge Baxter advised that plaintiff not be given leave to amend. *Id.*

Plaintiff has not filed objections. The time period in which to do so has expired. *See* Dkt. No. 4. Upon review for clear error, the R&R will be accepted and adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

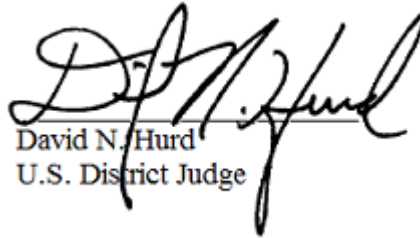
ORDERED that

1. The Report & Recommendation is ACCEPTED;
2. Plaintiff's RICO claims are DISMISSED with prejudice;
3. Plaintiff's claims under New York criminal statutes are DISMISSED with prejudice; and
4. Plaintiff's complaint is otherwise DISMISSED without prejudice but without leave to amend.

The Clerk of the Court is directed to terminate the pending motion and enter a judgment accordingly.

IT IS SO ORDERED.

Dated: January 26, 2023
Utica, New York.



David N. Hurd
U.S. District Judge